

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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CROCEFISSA TAORMINA and VICENTE  
FRUGGIERO on behalf of themselves and  
all others similarly situated,

## ORDER

Plaintiff,

CV 2009-0905 (DLI) (MDG)

- against -

PETER CARDELLA SENIOR CITIZEN CENTER,  
INC.,

Defendant.

The Court's records indicate that the complaint in this action was filed on March 4, 2009 and that summons was issued. However, the docket sheet does not indicate that any answer, motion to dismiss or return of service has been filed. Rule 4(m) of the Federal Rules of Civil Procedure provides:

If a defendant is not served within 120 days after the complaint is filed, the court - motion or on its own after notice to the plaintiff - must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m).

If service has been effected, plaintiff is reminded that pursuant to Rule 4(l) of the Federal Rules, "proof of service must be made to the court . . . by the server's affidavit."

If timely service cannot be made, plaintiff must electronically file a request for leave to extend the time for service.

Accordingly, if service is not made upon the defendant by Monday, August 31, 2009, I will recommend that the Court dismiss this action without prejudice.

If service has been completed and the time to answer has expired, plaintiff should move for default judgment by September 15, 2009 or promptly file a status report advising the court whether the parties are ready for an initial conference. In the event plaintiff moves for default judgment, motion papers must be filed electronically and the original submission must be sent to the Clerk of Court.

**SO ORDERED.**

Dated:      Brooklyn, New York  
                July 29, 2009

\_\_\_\_\_/s/\_\_\_\_\_  
MARILYN D. GO  
UNITED STATES MAGISTRATE JUDGE